

MEMORANDUM FOR: Bob H. ●

For your information.
Thanks for your
guidance.

Donna B.



Date 12-10-81

ROUTING AND TRANSMITTAL SLIP

Date

TO: (Name, office symbol, room number, building, Agency/Post)

Initials

Date

1.

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Action

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As Requested

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For Clearance

For Correction

For Your Information

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Justify

Note and Return

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Signature

REMARKS

Call Kent re: paper

Gave Kent a complete set

" Jeff "

" Mickie "

" Bob H. "

" Irene M. "

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OPTIONAL FORM 41 (Rev. 7-76)
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FPMR (41 CFR) 101-11.206

MEMORANDUM FOR THE RECORD:

In the past Transactions and Records Branch has operated on the basis that when an employee becomes entitled to two pay changes (promotion, WGI, QSI) at the same time, the changes are to be processed in the order which gives him/her the maximum benefit. This was also done when an action was being processed on the same Effective Date as the Legislative Pay Increase.

When the Legislative Pay Increase for October 4, 1981 was effected, the special rate schedules were not given the 4.8% increase. Also in the GSC and GSH schedules the grade six was deleted and the GSI grade five was deleted. There were 9 employees in the GSC-06 grade; 1 employee in the GSH-06 grade and 1 employee in the GSI-05 grade. Transactions and Records Branch prepared actions on all the employees using the simultaneous ruling along with the regular ruling of discontinuing special rates which states that no employee shall have his pay reduced because of that action. "If the employee is receiving a rate of basic pay equal to one of the rates in the regular rate range for his grade or level, the Agency shall fix his basic pay at that rate."

Example: GSC-06-1 = \$14128
GS -06-2 = \$14128

Since we received a Legislative Pay Increase effective that same date, 04 October 1981, the employee would first have his schedule fixed and then receive the 4.8% increase at \$14,806. Transactions and Records Branch processed all the actions concerned in this way.

After the actions were processed and sent to payroll, we received instructions on how this procedure should be handled. This ruling is found in OPM regulation 530.307(a)(b) - Effect of statutory pay increase (attached). This ruling says: "When an employee was receiving a special rate immediately before the effective date of a statutory pay increase, he shall receive on the effective date the rate of basic pay for: (2) 503.307(b) If there is no new special rate range, the numerical rank in the new statutory pay schedule for his grade or level that corresponds with the numerical rank of the special rate he was receiving immediately before that effective date."

Example: GSC-06-1 = \$14128
GS-06-1 = \$14328

Transactions and Records Branch was not aware of this regulation. We learned from OPM that you can apply the Simultaneous Rule when an employee is to receive 2 or more benefits on the same effective date but a Legislative Pay Increase is not considered a benefit.

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After talking with [redacted] PMCD and OPM referent, Transactions and Records Branch and Contract Personnel Division believes that these actions were prepared incorrectly. Corrective actions have been processed to pay adjust the employees to the correct step of their grade. The employees did not lose money. They should have been converted at the same step in the GS pay schedule that corresponded with the step in the special rated schedule since the employee's current rate of pay was not reduced.

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a person to a position at grade 11 and above of the General Schedule at such rate or rates above the minimum rate of the appropriate grade as the Commission may authorize for this purpose. Commission approval, however, is not required for appointments made by the Librarian of Congress. →(See FPM chapter 338, subchapter 7, for discussion on requirements and criteria for making superior qualifications appointments.)←

2-4. POSITION OR APPOINTMENT CHANGES

a. General rule. When an employee moves into a position by any means other than new appointment, he/she may be paid at any rate for his/her grade which does not exceed his/her highest previous rate, computed as described below; or, if his/her highest previous rate falls between two rates of his/her new grade, he/she may be given the higher rate. In no event is he/she to receive less than the minimum rate for his/her grade following the position or appointment change.

b. Computation of highest previous rate. The basic policies governing computation of the employee's highest previous rate are as follows:

(1) The rate used for pay determination purposes must be based on a regular tour of duty by the employee at that rate, either under an appointment not limited to 90 days or less, or for a continuous period of 90 days or more under one or more appointments without a break in service.

(2) The actual dollar value of the previous rate must be adjusted to provide for subsequent increases in the rate schedules of the General Schedule. This involves determining the equivalent General Schedule rate in terms of the General Schedule pay schedule at the time of the previous rate and converting it to the current rate for the same rate and grade, in order to arrive at the employee's highest previous rate.

(3) The employee's highest previous rate cannot be based on an agency upgrading of a

position previously classified by the Commission in a lower grade, when the Commission subsequently reverses the agency's regrading action. Nor can the highest previous rate be based on an appointment under section 3109 of title 5, United States Code. In addition, when the employee's rate of basic pay is a special rate established under section 5303 of title 5, United States Code, the special rate may not be used as the employee's highest previous rate without the prior approval of the Commission, and then, only when (i) the employee is reassigned to a position for which no special rate, or a lesser special rate, has been established and (ii) the head of the agency determines that the need for the services of the employee, and his/her contributions to the agency, will be greater in the position to which he/she is being reassigned.

c. Simultaneous pay changes. When an employee becomes entitled to two pay changes at the same time, the changes are to be processed in the order which gives him/her the maximum benefit.

2-5. PROMOTIONS

The law provides that when an employee is promoted, his rate in the new grade shall be that one (but not above the maximum rate) which exceeds his rate (including a special rate authorized under 5 U.S.C. 5303) in his previous grade by an amount equal to two within-grade increases of the grade from which he/she was promoted or transferred. The same rule is used to determine the rate to be paid in a temporary promotion.

2-6. CLASSIFICATION APPEAL DECISIONS

Civil Service Commission classification decisions which are retroactively effective are considered as cancelling or correcting a previous agency demotion action. Hence, the employee concerned is entitled to retroactive pay in accordance with the terms of the corrective action.

§ 530.302

Title 5—Administrative Personnel

Chapter I—Office of Personnel Management

§ 530.307

Executive Order 11073, and this subpart.

§ 530.302 Applicability.

This subpart applies to departments and agencies having employees occupying positions paid under (a) section 5332(a) of title 5, United States Code, (b) Part III of title 39, United States Code, relating to personnel in the postal field service, (c) the pay scales for physicians, dentists, and nurses in the Department of Medicine and Surgery of the Veterans' Administration under chapter 73 of title 38, United States Code, or (d) sections 410 and 415 of the Foreign Service Act of 1948, as amended (22 U.S.C. 607 and 670).

§ 530.303 Definitions.

In this subpart:

(a) "Area" means a geographical subdivision which can be described in terms of boundaries, such as the metropolitan limits of a city, the area within 20 miles of the city limits, county, several counties, a State, the United States.

(b) "Executive Order" means Part III, Special Rates for Recruitment and Retention, of Executive Order 11073, issued January 2, 1963.

(c) "Location" means a specific place of employment within an area, such as a particular shipyard or airbase.

(d) "Numerical rank" means (1) a numbered rate of a grade of the General Schedule; (2) a numbered rate of a level of the Postal Field Service Schedule; (3) a numbered step or rate within the minimum and maximum pay scale for a position of physician, dentist, or nurse in the Department of Medicine and Surgery of the Veterans' Administration; or (4) a rate within a class for a position under the Foreign Service Act; and, (5) a similar numbered rate or step within a special rate range established under any of the enumerated pay systems.

(e) "Special rate range" means a range of rates established by OPM under section 5303 of title 5, United States Code.

(f) "Special rates" mean rates within the special rate range, and include "special minimum rate" which is the first rate of the special rate range.

§ 530.304 Establishing special rates.

(a) OPM establishes special rates in one or more areas or locations to the extent it considers necessary to overcome significant handicaps in the recruitment and retention of well-qualified personnel when these handicaps result from pay rates in private enterprise being substantially above the pay rates of the statutory pay schedules.

(b) The department or agency initiating a request for special rates is responsible for submitting complete supporting data including, upon the specific request by OPM, a survey of prevailing pay rates in private enterprises in the area.

§ 530.305 Determining employee rates.

(a) (1) Except as provided in paragraph (a)(2) of this section, when an employee is in a position to which a special rate range becomes applicable, the department or agency shall fix his rate in the special rate range at the numerical rank in the special rate range for his grade or level, which corresponds to his existing numerical rank in the rate range for his grade or level.

(2) When an employee receiving a retained rate under section 6037 of title 5, United States Code, or under section 3587 of title 39, United States Code, relating to personnel in the postal field service, is in a position to which a special rate range becomes applicable, the department or agency shall fix his rate in the special rate range without regard to the retained rate. If his retained rate is higher than the rate in the special rate range, he is entitled to receive the retained rate until it is appropriately terminated. At this time the department or agency shall fix his rate under applicable regulations.

(b) (1) When an employee is reassigned at the same grade or level

under the same pay system to a position to which a special rate range applies, the department or agency shall fix his rate in the special rate range at the numerical rank in the special rate range for his grade or level which corresponds to his existing numerical rank in the rate range for his grade or level.

(2) When an employee in a position to which a special rate range does not apply is promoted to a position to which a special rate range applies, the department or agency shall determine first his numerical rank in the higher grade or level without regard to the special rate range and then shall fix his rate at the corresponding numerical rank in the special rate range for the position to which promoted.

(3) When an employee not entitled to a retained rate under appropriate statutory authority is demoted to a position to which a special rate range applies, the department or agency shall determine first his numerical rank in the lower grade without regard to the special rate range and then shall fix his rate at the corresponding numerical rank in the special rate range for the position to which demoted.

(4) Except as provided in paragraphs (a)(1), (2), and (3) of this section, all other actions of promotion, demotion, transfer, or reassignment are governed by the pay-fixing rules established for the appropriate pay system to which, or in which, the personnel action is taken.

(5) The department or agency shall determine the rate of basic pay for an individual receiving an initial appointment (including an appointment after a break in service of at least one work day) to a position to which a special rate range applies in the grade or level of the position under the regulations governing the pay system under which appointed without regard to the special rate range and shall use the numerical rank thus determined to fix the employee's rate at the corresponding numerical rank in the special rate range.

§ 530.306 Discontinuing special rates.

(a) OPM and each affected department or agency are responsible for initiating action to discontinue or revise special rates when these rates are no longer needed for recruitment and retention. No employee shall have his pay reduced because of that action.

(b) When the special rates for a position are discontinued, the department or agency shall determine the rate of basic pay for an employee in the position as follows:

(1) If the employee is receiving a rate of basic pay equal to one of the rates in the regular rate range for his grade or level, the department or agency shall fix his basic pay at that rate.

(2) If the employee is receiving a rate of basic pay at a rate between two rates in the regular rate range of his grade or level, the department or agency shall fix his basic pay at the higher of the two rates.

(3) If the employee is receiving a rate of basic pay at a rate in excess of the maximum rate for the regular rate range for his grade or level, the department or agency shall fix his basic pay at his existing rate, and the employee shall be entitled to this rate as long as he remains in the same position or until he becomes entitled to a higher rate.

§ 530.307 Effect of statutory pay increases.

(a) A statutory revision of the pay schedule of the pay system for which special rates are authorized under section 5303 of title 5, United States Code, automatically changes the special minimum rate (if more than the minimum rate for the new pay schedule for the grade or level concerned) to the highest rate in the new pay schedule which does not result in a decrease and the other special rates for the special rate range are changed to similar rates in the new schedule adjusted on the basis of the new special minimum rate.

(b) When an employee was receiving a special rate immediately before the

§ 531.201

Title 5—Administrative Personnel

Chapter 1—Office of Personnel Management

§ 531.203

effective date of a statutory pay increase, he shall receive on that effective date the rate of basic pay for:

(1) The numerical rank in the new special rate range for his grade or level, that corresponds with the numerical rank of the special rate he was receiving immediately before that effective date; or

(2) If there is no new special rate range, the numerical rank in the new statutory pay schedule for his grade or level that corresponds with the numerical rank of the special rate he was receiving immediately before that effective date.

PART 531—PAY UNDER THE GENERAL SCHEDULE

Nomenclature Change: A document published at 44 FR 47323, Aug. 14, 1979, made general nomenclature changes to the Office of Personnel Management regulations in this chapter.

Subpart A—[Reserved]

Subpart B—Determining Rate of Basic Pay

- Sec.
- 531.201 Applicability.
 - 531.202 Definitions.
 - 531.203 General provisions.
 - 531.204 Special provisions.
 - 531.205 Pay conversion rules for rates of basic pay in the General Schedule at the time of a pay adjustment under 5 U.S.C. 5305.

Subpart C—Pay Adjustments for Supervisors

- 531.301 Authority of agency.
- 531.302 Definitions.
- 531.303 Use of authority.
- 531.304 Requirements for entitlement.
- 531.305 Adjustment of rates.

Subpart D—Within-Grade Increases

- 531.401 Scope.
- 531.402 Definitions.
- 531.403 Within-grade increases—waiting period.
- 531.404 Creditable service—waiting period.
- 531.405 Noncreditable service—waiting period.
- 531.406 Equivalent increase.
- 531.407 Work of an acceptable level of competence.

- Sec.
- 531.408 Effective date—within-grade increase.
 - 531.409 Corrective action—within-grade increase.
 - 531.410 Authority—quality increase.
 - 531.411 Quality of performance required.
 - 531.412 Agency plans—quality increase.
 - 531.413 Reports—quality increase.

Subpart E—Salary Reduction

- 531.501 Purpose.
- 531.502 Entitlement.
- 531.503 Definitions.
- 531.504 Documentation.
- 531.505 Equivalent tenure.
- 531.506 Demotion for personal cause.
- 531.507 Demotion at employee's request.
- 531.508 Demotion in a reduction in force.
- 531.509 Continuous service.
- 531.510 Transfer of functions.
- 531.511 Work performance.
- 531.512 Formula for computing retained rate.
- 531.513 Rate determination.
- 531.514 Retention period—reassignment.
- 531.515 Within-grade increases.
- 531.516 Pay adjustment.
- 531.517 Appeals to the Merit Systems Protection Board.

Authority: 5 U.S.C. 5115, 5338, unless otherwise noted. §§ 531.501 to 531.510 also issued under 5 U.S.C. 5337.

Source: 33 FR 12443, Sept. 4, 1968, unless otherwise noted.

Subpart A—[Reserved]

Subpart B—Determining Rate of Basic Pay

- § 531.201 Applicability.
- This subpart and sections 5338 and 5334 of title 5, United States Code, apply in fixing and adjusting rates of basic pay of each employee subject to the General Schedule.

§ 531.202 Definitions.

In this subpart:

(a) "Demotion" means a change of an employee, while continuously employed, from:

(1) One General Schedule grade to a lower General Schedule grade, with or without reduction in pay; or

(2) A higher rate paid under authority other than subchapter III of chapter 53 of title 5, United States Code, to a lower rate within a General Schedule grade.

(b) "Agency" has the meaning given that word by section 5102 of title 5, United States Code.

(c) "Employee" means an employee of an agency to whom this subpart applies.

(d) "Existing rate of basic pay" means the rate received immediately before the effective date of a transfer, promotion, demotion, or within-grade increase.

(e) "Higher grade" means a General Schedule grade above the last previous General Schedule grade or its equivalent held by the employee.

(f) "Highest previous rate" means the highest rate of basic pay previously paid to an individual while employed in a position in a branch of the Federal Government (executive, legislative, or judicial), a mixed ownership corporation, or the government of the District of Columbia, irrespective of whether or not the position was subject to the General Schedule.

(g) "New appointment" means the first appointment, regardless of tenure, as an employee of the Federal Government or the Government of the District of Columbia.

(h) "Promotion" means a change of an employee, while continuously employed, from:

(1) One General Schedule grade to a higher General Schedule grade; or

(2) A lower rate paid under authority other than subchapter III of chapter 53 of title 5, United States Code, to a higher rate within a General Schedule grade.

(i) "Rate of basic pay" means the rate of pay fixed by law or administrative action for the position held by an employee before any deductions and exclusive of additional pay of any kind.

(j) "Reassignment" means a change of an employee, while serving continuously in the same agency, from one position to another without promotion or demotion.

(k) "Reemployment" means an employment, including reinstatement or another type of appointment, after a break in service of at least 1 full workday.

(l) "Transfer" means a change of an employee, without a break in service of 1 full workday, from one branch of the Federal Government (executive, legislative, or judicial) to another or from one agency to another.

§ 531.203 General provisions.

(a) *New Appointments.* Except as provided by section 5333(a) of title 5, United States Code, and paragraph (b) of this section, a new appointment is made at the minimum rate of the grade, or when the minimum rate of the grade of a position has been set under Part 530 of this chapter, a new appointment is made at the minimum rate set under Part 530 of this chapter.

(b) *Superior qualifications appointments.* (1) A "superior qualifications appointment" means an appointment to a position in Grade 11 or above of the General Schedule made, with the prior approval of the Office or under an agreement between the agency and the Office (except for positions in the Library of Congress), at a rate above the minimum rate of the appropriate grade under authority of section 5333 of title 5, United States Code because of the superior qualifications of the candidate.

(2) An agency may make a superior qualifications appointment by new appointment or by reemployment, except that when made by reemployment, the candidate must have a break in service of at least 90 calendar days from his or her last period of Federal employment or employment with the Government of the District of Columbia (other than (i) employment under an appointment as an expert or consultant under section 4103 of title 5, United States Code, or employment under a temporary appointment effected primarily in furtherance of a post-doctor